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| NO. X06-UWY-CV-18-6046436 S : | SUPERIOR COURT |
| ERICA LAFFERTY, ET AL : | COMPLEX LITIGATION DOCKET |
| V. : | AT WATERBURY |
| ALEX EMRIC JONES, ET AL : | MARCH 28, 2022 |
| NO. X06-UWY-CV-18-6046437 S : | SUPERIOR COURT |
| WILLIAM SHERLACH : | COMPLEX LITIGATION DOCKET |
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**OBJECTION TO PLAINTIFFS' MOTION FOR FINDING OF CIVIL CONTEMPT,
ISSUANCE OF ORDERS TO SECURES ALEX JONES' ATTENDANCE AT
DEPOSITION, AND ISSANCE OF FURTHER SANCTIONS ORDERS (DKT. 750.00)**

For the past year and a half, the world has given more deference to medical professionals than any time in human history. Even courts joined in granting this deference without question, and the world justified that deference as being necessary to protect human life and human health. Many of the recommendations made by doctors were precautionary, and they received the force of law in many instances.

Here, the Plaintiffs have blatantly asked the Court to substitute its judgment for that of Mr. Jones' doctors. They have publicly made a pseudo-macho challenge as to Mr. Jones' courage in the media that has sullied this litigation, publicly accusing him of cowardice for ultimately listening to his doctors: "Once again, Alex Jones failed to appear for his court-ordered deposition today. This cowardly attempt by Mr. Jones to escape

accountability for the years he spent spreading lies about Sandy Hook, shows contempt both for the law and the families.”¹

Had Attorney Mattei’s statements been made about anyone following a COVID-19 precaution – including any one of the countless venirepersons who disregarded this Court’s summons to appear for jury duty in cases as Connecticut courts reopened but went to the grocery store or work, they would have been deemed the height of irresponsibility. Indeed, the venirepersons would have undoubtedly been lauded as acting responsibly – a position that this Court undoubtedly took as the undersigned are unaware of any Superior Court judge directing the penalization of any venireperson for failing to answer their summons.

Mr. Jones has no desire or reason to evade a deposition in this case. He has produced tens of thousands of documents in response to discovery requests in this case. He has sat for three depositions in matters arising in Texas on the same subject – depositions that the Plaintiffs and their counsel are undoubtedly aware of. He has even sat for questions before a committee of the United States Congress pertaining to his various political activities. In other words, Mr. Jones has never evaded providing testimony in any forum.

That Mr. Jones has chosen to reveal one of his medical conditions – a sinus blockage – on his television show has no bearing on his other medical conditions, which he is well within his privacy rights not to reveal, and the Plaintiffs’ attempt to cast aspersions on his doctors’ recommendations is reckless in the extreme. Thus, Mr. Jones respectfully

¹ Statement of Christopher Mattei, *Alex Jones skips second deposition in Sandy Hook case*, The Hill (March 24, 2022) <https://thehill.com/regulation/court-battles/599605-alex-jones-skips-second-deposition-in-sandy-hook-case>

requests that the Court decline to hold him in contempt and to issue further sanctions orders.

Relevant Factual Background

As part of a rescheduling agreement between counsel, the deposition of Alex Jones in this case was rescheduled to occur on March 23, 2022 and March 24, 2022. On March 21, 2022, Mr. Jones' counsel sought an emergency protective order to temporarily delay the deposition on the advice of Mr. Jones' doctor. The Court denied the motion after a hearing on March 22, 2022.

On March 23, 2022, counsel for the Plaintiffs and counsel for Mr. Jones appeared at the place designated in Austin, Texas for his deposition. Mr. Jones did not appear for his deposition.

Mr. Jones' nonappearance came upon the advice of a physician, Dr. Benjamin Marble, who arrived in Austin to visit him on March 20, 2022. See **Exhibit A**, ¶ 6. On March 21, 2022, Dr. Marble's personal observations of Mr. Jones so alarmed him that he insisted on conducting a physical examination of Mr. Jones. *Id.* at ¶ 7. He immediately advised Mr. Jones to go to an emergency room or call 911. *Id.* at ¶ 8. After Mr. Jones refused, Dr. Marble advised him to stay home, which Mr. Jones did not do. *Id.* at ¶¶ 9-11. Dr. Marble subsequently arranged for a comprehensive medical workup to be conducted for Mr. Jones on March 23, 2022 by Dr. Amy Offutt. *Id.* at ¶ 12.

Dr. Marble remains firm in his initial recommendation that Mr. Jones neither attend a deposition nor return to work until the results of the comprehensive medical workup are returned, and he opines that Mr. Jones stands at serious risk of harm. *Id.* at ¶¶ 14-15.

Mr. Jones completed his testing with Dr. Offutt on March 23, 2022. **Exhibit B**. Dr. Offutt describes Mr. Jones' medical issues as time-sensitive and potentially serious, and

she advised him to avoid too much stress pending further testing. *Id.* Dr. Offutt also provided him with ER precautions, and she advised him not to attend court proceedings. *Id.*

On March 23, 2022, the Court issued an order after a hearing declining to issue a *capias*, but ordering Mr. Jones to appear for his second day of depositions on March 24, 2022. Dkt. 734.10. Mr. Jones did not appear for his deposition on March 24, 2022 on the advice of his physicians, who determined that it was an open question on whether he would or would not be hospitalized that same day pending the results of certain medical tests. See Dkt. 750.00, Exhibit D, p. 4.

ARGUMENT

I. The Court Must Hold An Evidentiary Hearing Before Determining Whether To Hold Mr. Jones In Contempt.

The circumstances that gave rise to the Court's March 23, 2022 order (Dkt. 734.10) were emergent, and the Court and counsel alike were not as precise in their language as they would ordinarily be. Thus, the Court mistakenly stated that, if Mr. Jones did not appear for his deposition on March 24, 2022, "he will be in direct contempt of the court's orders requiring him to appear for his deposition."

There is a distinct difference between direct contempt and indirect contempt. Direct contempt concerns conduct that occurs within the presence of the court while indirect contempt occurs outside the presence of the Court. See *Quaranta v. Cooley*, 130 Conn.App. 835, 841 (2011). This distinction makes an enormous difference in the procedures that the Court must follow.

"[T]here are constitutional safeguards that must be satisfied in indirect contempt cases. It is beyond question that due process of law ... requires that one charged with contempt of court be advised of the charges against him, have a reasonable opportunity to meet them by way of defense or

explanation, have the right to be represented by counsel, and have a chance to testify and call other witnesses in his behalf, either by way of defense or explanation.... Notice, to comply with due process requirements, must be given sufficiently in advance of scheduled court proceedings so that reasonable opportunity to prepare will be afforded, and it must set forth the alleged misconduct with particularity....”

Id. at 845-46.

Mr. Jones does not waive these rights.

The Plaintiffs filed their motion for contempt on March 25, 2022, which constitutes a new separate filing in addition to the motion that the Jones Defendants requested additional time to brief and which the Court set a briefing and hearing schedule for in its March 23, 2022 order (Dkt. 734.10). Thus, the scheduled March 30, 2022 hearing does not afford Mr. Jones and his counsel a meaningful opportunity to prepare his defenses at that hearing. Indeed, it is only as a matter of the utmost caution that the undersigned have made strenuous efforts to prepare this response to the Plaintiffs’ motion for contempt so as to not leave Mr. Jones undefended, and they would certainly require a more sufficient opportunity to prepare Mr. Jones’ defense than a weekend where witnesses are unavailable and their own working capacity is less than optimal.

II. The Court Should Not Hold Alex Jones In Civil Contempt.

The Court should not hold Mr. Jones in contempt of its orders. In its March 23, 2022 order directing Mr. Jones to attend his deposition on March 24, 2022 (Dkt. 744.10), the Court stated that, if Mr. Jones “develops escalating symptoms such that he is hospitalized, that change in circumstances would excuse his attendance at the court ordered deposition.”

A person commits civil contempt when he violates a court order requiring him “in specific and definite language to do or refrain from doing an act or series of acts.” *Puff v.*

Puff, 334 Conn. 341, 364 (2020). Because contempt is such a harsh remedy, it should not be based on implication or conjecture, but rather clear and unequivocal language. *Id.* Additionally, a party must willfully violate a court order to commit contempt, and the party seeking an order of contempt must prove, by clear and convincing evidence, “a clear and unambiguous directive to the alleged contemnor and the alleged contemnor’s wilfull noncompliance with that directive.” *Id.* at 365. Should the moving party carry this burden, the alleged contemnor receives an opportunity to demonstrate an inability to comply with the court order. *Id.*

“A judgment of contempt cannot be based on representations of counsel in a motion, but must be supported by evidence produced in court at a proper proceeding.” *Id.* at 366. Here, the Plaintiffs supply no evidence except the representations of counsel, which are insufficient to grant the motion on the basis of the moving papers only.

There is no dispute that Mr. Jones did not appear for his deposition on March 24, 2022 as ordered. Why he did not appear is a matter in dispute that can only be settled by the presentation of evidence in a contempt hearing.

With respect to the Court’s orders, Mr. Jones reasonably could have concluded that its directive that his attendance at his deposition would be excused if he was hospitalized due to escalating symptoms also encompassed the opportunity for a trained medical professional to assess and determine whether escalating symptoms required hospitalization. In other words, the carve-out supplied by the Court’s order left some leeway for Mr. Jones to safeguard his health and whether Mr. Jones properly used that carve-out is a question of fact that can only be determined after a hearing. The resolution of that same question will also resolve the wilfulness prong.

It is also of no small importance that the Court's orders created an unconscionable choice for Mr. Jones. He received his physicians' prognostications that his medical conditions were of such a serious nature that they were recommending that he pay a visit to the emergency room. When he refused, they relented only so far as he did not submit himself to stress, and they ordered him not to attend his deposition. Facing an all-day deposition conducted by a former federal prosecutor in a hotly contested case is no walk in Central Park for anyone in perfect health. It is a grueling ordeal made even more grueling when that former federal prosecutor is seeking to explore allegations that Mr. Jones maliciously weaponized a tragedy to inflict distress on those whom the prosecutor represents. Any one in Mr. Jones' position would have experienced significant stress in preparing for such a deposition, and no ordinary person would have felt at ease sitting for such a deposition when their doctors were actively engaged in making a decision on whether they should go to the emergency room for a condition that could prove disastrous if exacerbated.

With an active decisionmaking process ongoing on whether Mr. Jones should be sent to the emergency room, Mr. Jones fell comfortably into the Court's exception for his absence at his deposition, and the Court should decline to hold him in contempt.

III. If It Decides To Hold Mr. Jones In Civil Contempt, The Court Should Avoid Issuing Sanctions That Will Pose A Significant Risk Of Exacerbating Mr. Jones' Health Conditions And That Become Criminal Sanctions By Their Operation In This Context.

If the Court chooses to hold Mr. Jones in civil contempt, it should avoid issuing sanctions that will pose a significant risk of exacerbating Mr. Jones' health conditions. The Plaintiffs have repeatedly urged this Court to issue an arrest warrant for Mr. Jones and to incarcerate him until he provides deposition testimony. Their repeated requests show a

complete disregard for Mr. Jones' health and border, if not cross the border, on an attempt to exacerbate Mr. Jones' health conditions.

Rendering the Plaintiffs' request even more reckless is their acknowledgement that an order of incarceration would depend on Texas courts' enforcement of the order – a process that they acknowledge would take time and is no certain remedy. Dkt. 750, pp. 11-12. In other words, the Plaintiffs themselves acknowledge that the Court's ordering of Mr. Jones' arrest would simply be gratuitous at this point and would serve no practical purpose other than attempting to inflict punishment on him.

Incarceration in the context of compelling a deposition treads a very fine line between crossing into the land of criminal contempt. Civil contempt remedies carry the unique feature of allowing the person held in contempt to purge himself of contempt and be released immediately or very quickly. In this context, imprisoning Mr. Jones until he gives a deposition would leave him at the mercy of Plaintiffs' counsel, who could easily and reasonably claim that they need additional days to prepare for his deposition after he indicates his willingness to sit for a deposition. However reasonable their need for additional time may be, Mr. Jones would spend additional time incarcerated while awaiting to be deposed, which would render his incarceration a criminal sanction rather than the remedial one required by civil contempt.

The Plaintiffs' request for a daily escalating fine bears the same practical infirmity. They seek a \$25,000 per day fine that escalates to \$50,000 per day seven days until Mr. Jones completes his deposition. In this context, fining Mr. Jones until he gives a deposition would leave him at the mercy of Plaintiffs' counsel, who could easily and reasonably claim that they need additional days to prepare for his deposition after he indicates his willingness to sit for a deposition. However reasonable their need for additional time may

be, Mr. Jones would bear a tremendous financial burden while awaiting to be deposed, which would render his fining a criminal sanction rather than the remedial one required by civil contempt.

Thus, the Court should not impose incarceration as a sanction both in consideration of Mr. Jones' health and in light of the practical difficulties that would functionally convert it into a criminal sanction. If it chooses to impose a fine, it should order the return of the entirety of the fine upon Mr. Jones' completion of his deposition.

IV. The Plaintiffs Have Merely Alleged That Mr. Jones Has Acted In Bad Faith. Their Allegations Cannot Support The Award Of Their Attorneys' Fees.

To obtain attorneys' fees and costs, the Plaintiffs must show that Mr. Jones acted in bad faith. *Berzins v. Berzins*, 306 Conn. 651, 663 (2012). The uncontroverted record before the Court shows that Mr. Jones received a series of specific orders from his physicians: (1) go to the emergency room; (2) remain at home; (3) do not attend your deposition pending your medical tests. Concededly, Mr. Jones did not heed some of these orders initially by refusing to go to the emergency room or to remain home.

After he received further testing, he ultimately did remain home upon his doctors' advice after it was impressed upon him that he was on the verge of being sent to the emergency room. That included foregoing his deposition pending the results of further medical tests.

What has been lost in the Plaintiffs' rush to obtain this Court's orders and sanctions against Mr. Jones is that Mr. Jones has never sought to indefinitely postpone his deposition or to escape it entirely. Instead, he has sought to have it postponed until his doctors clear him to sit for it. To find that Mr. Jones has acted in bad faith by displaying the stubborn behavior that the average person's dad would display by shrugging off medical care until

it was impressed upon him just how serious his condition was would gratuitously stretch the definition of bad faith beyond its reasonable limits.

Mr. Jones ultimately heeded his doctors' advice. He did not appear for the second day of his deposition because his doctors were actively working to determine whether he should be in the emergency room instead of that deposition. That is not bad faith. That is the same cautious approach that every member of society has taken through the COVID-19 pandemic, just in a different context.

Thus, the Court should decline to order costs and attorneys' fees for the Plaintiffs.

Conclusion

For the foregoing reasons, the Jones Defendants ask the Court to deny the Plaintiffs' motion for contempt. In the alternative, Mr. Jones does not waive his rights to a hearing as required by due process.

Dated: March 28, 2022

Respectfully Submitted,

Alex Jones,
Infowars, LLC;
Free Speech Systems, LLC;
Infowars Health, LLC; and
Prison Planet TV, LLC

BY: /s/ Norman A. Pattis /s/
/s/ Cameron L. Atkinson /s/
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CERTIFICATION

This is to certify that a copy of the foregoing has been emailed and/or mailed, this day, postage prepaid, to all counsel and pro se appearances as follows:

For Genesis Communications Network, Inc.:

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/s/ Cameron L. Atkinson /s/
Cameron L. Atkinson, Esq.

Exhibit A

NO. X06-UWY-CV-18-6046436-S : SUPERIOR COURT
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V. : AT WATERBURY
ALEX EMRIC JONES, ET AL : MARCH 23, 2022

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V. : AT WATERBURY
ALEX EMRIC JONES, ET AL : MARCH 23, 2022

RENEWED MOTION FOR PROTECTIVE ORDER RE: DEPOSITION OF ALEX JONES

The defendant, Alex Jones, renews his "Amended Motion for Protective Order RE: Deposition of Alex Jones," filed on, March 21, 2022. See, Dkt# 730.00. In support of this renewed motion the defendant submits the sworn statements of two medical professionals: Dr. Benjamin Marble and Dr. Amy Offutt. These statements are attached hereto as Exhibit A.

As part of a rescheduling agreement between counsel, the deposition of Alex Jones in this case was rescheduled to occur on March 23, 2022 and March 24, 2022. On March 21, 2022, Mr. Jones' counsel sought an emergency protective order to temporarily delay the deposition on the advice of Mr. Jones' doctor. The Court denied the motion after a hearing on March 22, 2022.

On March 23, 2022, counsel for the Plaintiffs and counsel for Mr. Jones appeared at the place designated in Austin, Texas for his deposition. Mr. Jones did not appear for his deposition.

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| ALEX EMRIC JONES, ET AL | : | MARCH 23, 2022 |

AFFIDAVIT OF DR. BENJAMIN MARBLE

I, Dr. Benjamin Marble, being duly sworn, hereby state:

1. I am over the age of 18 and understand the meaning of an oath.
2. I am a physician licensed to practice in the states of Florida, Alabama, and Mississippi.
3. I graduated from the University of South Alabama at Mobile Medical School in 1997.
4. I completed my Family Practice Residency in the year 2000.
5. I was nominated for a Nobel Peace Prize in 2021.
6. I arrived in Austin, Texas to visit with Mr. Jones on March 20, 2022.
7. On March 21, 2022, I was so alarmed by my personal observations of Mr. Jones' physical health that I conducted a physical examination of him.
8. Based on that assessment, I immediately advised Mr. Jones to go to an Emergency Room or call 911.
9. Mr. Jones refused to do so.

10. I then advised him to stay at home and rest until further medical testing could be conducted.
11. It is my understanding that Mr. Jones has not remained home as advised.
12. I then arranged for Mr. Jones to have a comprehensive medical workup, to be conducted by Dr. Amy Offutt – of Marble Falls, Texas.
13. Mr. Jones' medical testing with Dr. Offutt was scheduled for this morning – March 23, 2022.
14. Based on my communications with Dr. Offutt's office, subsequent to Mr. Jones' initial evaluation and testing, I stand by my recommendation that Mr. Jones neither attend a deposition nor return to work until the test results are completed and returned.
15. In my opinion Mr. Jones stands at serious risk of harm if he submits to stressors.

Dr. Benjamin Marble
Dr. Benjamin Marble

Subscribed and sworn before me, this 23 day of March, 2022.

[Signature]

LESLIE MUNIZ
Notary Public, State of Texas
Comm. Expires 11-01-2022
Notary ID 131781400

Exhibit B

Amy Offutt, MD

707 3rd St
Marble Falls, TX 78654
Phone: (830)693-9355
Fax: (830)693-9194

March 23, 2022

Alex Jones
[REDACTED]

Austin, TX 78735
[REDACTED]

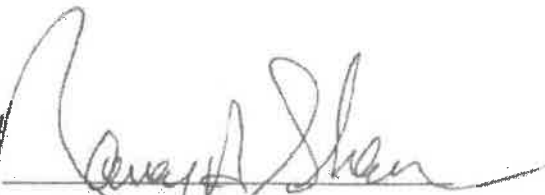
To Whom It May Concern:

This morning, I had a medical visit with Mr. Alex Jones for acute medical issues that were time-sensitive and potentially serious. We started a comprehensive medical evaluation and he has labs that are pending to assess his [REDACTED] status. I have asked him to avoid too much stress until we have results from the blood tests this morning. I also gave him ER precautions if he develops escalating symptoms. As a result of these findings, I am advising him to not attend court proceedings for now.

Best Regards,



Amy Offutt, MD



Notary Public

